

**NEVADA DEPARTMENT OF
CONSERVATION & NATURAL RESOURCES**

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

COMMISSION PETITION NO. 96020

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-033-97

DOCUMENTS INCLUDED IN THIS FILE:

YES SECRETARY OF STATE FILING FORM

YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B

REGULATORY PETITIONS

ORIGINAL DRAFTED BY COMMISSION

ADOPTED BY COMMISSION

YES AS FILED AND CODIFIED BY LCB

Secretary of State
Filing Data

For Filing Administrative
Regulations

For Emergency
Regulations Only

Effective Date _____

Expiration Date _____

Governor's Signature

State Environmental Commission

Classification [] Proposed [] Adopted By Agency [xx] Temporary [] Emergency []

Brief description of action: **Petition 96020 (LCB File R-033-97)** permanently amends NAC 445A.22705 by amending the reference to Method E1739-95 as adopted by the American Society of Testing and Materials to be obtained from the Society directly rather than the Division of Environmental Protection. This proposed changes includes the address and cost of acquiring the document "Method E1739-95".

Authority citation other than 233B: NRS 445A.425

Notice date: August 21, August 27 and September 2, 1997

Hearing date: September 23, 1997

Date of Adoption of Agency: September 23, 1997

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PETITION 96020 (LCB R-033-97)**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 445A.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Petition 96019, (LCB File R-033-97) was noticed four (4) times as a temporary petition on February 4, February 5, February 12 and February 20, 1997, and three times as permanent petition on August 21, August 27 and September 2, 1997 in the Las Vegas Review Journal and the Reno Gazette-Journal newspapers. The public was also mailed the public notice through the Environmental Commission's mailing list for both the temporary and permanent regulation. A regulatory workshop was held on September 9, 1997. Notice of the regulatory workshop was done by inclusion into the aforementioned public notice. No public comment was received at the workshop or during the public noticing period. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (702) 687-4670 extension 3117, or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

2. The number persons who:

- | | | |
|-----|---|----|
| (a) | Attended each hearing; | 22 |
| (b) | Testified at each hearing; | 14 |
| (c) | Submitted to the agency written comments: | 8 |

3. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. No comments were received from affected businesses during the temporary and permanent adoption process. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (702) 687-4670 or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The permanent regulation was adopted by the State Environmental Commission without amendment. No changes were proposed during adoption of the regulation by the Commission at the September 23, 1997 hearing.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects: and
- (b) Both immediate and long-term effects.

There will be no anticipated adverse economic impact to businesses in the short or long term. The proposed regulatory changes will not have a short and long term beneficial economic impact upon businesses or to the public.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There will be no additional cost to the agency as a result of the addition of the proposed regulations.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agencies which the proposed regulation overlaps or duplicates.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

This regulation is no more stringent than federal requirements.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

No new fee is proposed nor is a fee increased by this regulation.

END OF FILING STATEMENT FOR 96020 (LCB R-033-97)

**ADOPTED PERMANENT REGULATION OF THE
NEVADA STATE ENVIRONMENTAL COMMISSION
Petition 96020
LCB File No. R-033-97**

Explanation: Matter in *italics* is new language. Matter in [] is material to be omitted.

AUTHORITY: NRS 445A.425

Section 1. NAC 445A.22705 is hereby amended to read as follows:

1. Except as otherwise provided in NAC 445A.22715, if an owner or operator is required to take corrective action pursuant to NAC 445A.227, the owner or operator may conduct an evaluation of the site, based on the risk it poses to public health and the environment, to determine the necessary remediation standards or to establish that corrective action is not necessary. Such an evaluation must be conducted using Method E1739-95, adopted by the American Society for Testing and Materials, as it exists on October 3, 1996, or an equivalent method approved by the division.

2. The division shall determine whether an evaluation complies with the requirement of Method E1739-95, or an equivalent method of testing approved by the division. The division may reject, require revisions be made to, or withdraw its concurrence with the evaluation at any time after the completion of the evaluation for the following reasons:

(a) The evaluation does not comply with the applicable requirements for conducting the evaluation.

(b) Conditions at the site have changed; or

(c) New information or previously unidentified information which would alter the results of the evaluation becomes available and demonstrates that the release may have a detrimental impact on public health or the environment.

3. If the division rejects, requires revisions to be made to, or withdraws its concurrence with an evaluation, it shall provide written notice of its determination and the reasons for its determination to the owner or operator. The owner or operator shall:

(a) Submit a revised evaluation to the division; or

(b) Carry out the corrective action required by the director.

4. Unless an evaluation is rejected by the division or returned to the owner or operator for revision, the director shall consider the results of the evaluation, the level of concentration of the hazardous substance, hazardous waste, or regulated substance in the soil, and the points of compliance to be elements of the plan for corrective action.

5. Method #1739-95, adopted by the American Society for Testing and Materials, as it exists on October 3, 1996, is hereby adopted by reference. A copy of the method may be obtained from the [division, free of charge.] *American Society for Testing and Materials, 100 Bar Harbor Drive, West Conshohocken, PA 19428-2959, at a cost of \$31.*

END OF LCB R-033-97